



Division of
Enforcement

COMMODITY FUTURES TRADING COMMISSION

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August 23, 2018

BY ECF

The Honorable Jack B. Weinstein
United States District Court
Eastern District of New York
225 Cadman Plaza East
New York, New York 11201

Re: *Commodity Futures Trading Commission v. Patrick K. McDonnell and CabbageTech, Corp. d/b/a Coin Drop Markets*, No. 18-CV-00361 (JBW)(RLM)

Dear Judge Weinstein:

I represent the Commission in the above-referenced action. During today's proceeding, the Court requested citations to the trial record concerning dissipation of customer assets by Defendant Patrick K. McDonnell.

In June 2017, at the same time that customer demands for refunds were mounting, and McDonnell was falsely stating to customers that his company had been hacked, McDonnell transferred more than 660 litecoin from the Bittrex cdmmmerchant account in his name to the Bittrex cryptoclow account in the name of his wife Lora McDonnell. (Trial Exs. 90, 91 (Withdrawals tab); 95, 96 (Deposits tab); 150-152 (showing steps of certain transfers); Trial Tr. 133:17-136:23, 357:22-367:12.)

Beginning in late June 2017, there were more than 60 withdrawals from the Bittrex cryptoclow account, (*see* Trial Exs. 95, 96 (Withdrawals tab)), including six withdrawals after the Order of the Court dated March 6, 2018. (*See* Trial Exs. 95, 96 (Withdrawals tab, p. 1, lines 2 through 7).) As a result of these withdrawals, the Bittrex cryptoclow account was depleted of virtually all assets. (Trial Tr. 367:23-369:01; Trial Exs. 95, 96 (Current Balances tab).)

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While the record at trial established that customer funds were transferred by McDonnell into the Bittrex cryptoclown account and thereafter depleted, the Commission did not offer evidence as to the ultimate destination of the virtual currency withdrawn from the Bittrex cryptoclown account.¹

Respectfully submitted,

/s/ Gates S. Hurand

Gates S. Hurand

cc: Patrick K. McDonnell (by e-mail)

¹ During summation, in response to a question from the Court, Mr. Tomer reiterated Mr. Giglio's testimony that there was virtually nothing left in the Bittrex cryptoclown account. While Mr. Tomer then further proffered based on evidence known to the Commission that the transfers were made to an exchange outside the United States, (Trial Tr. 450:25-451:06), Plaintiff did not present this evidence to the Court or request any finding or conclusion be based upon this proffer.